

INTERNET TAX FREEDOM ACT

JUNE 19, 1998.—Ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3849]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3849) to amend the Communications Act of 1934 to establish a national policy against Federal and State regulation of Internet access and online services, and to exercise congressional jurisdiction over interstate and foreign commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce conducted over the Internet, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

TABLE OF CONTENTS

	Page
The Amendment	1
Purpose and Summary	2
Background and Need for Legislation	2
Hearing	2
Committee Consideration	2
Committee Oversight Findings	2
Committee on Government Reform and Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Committee Cost Estimate	3
Constitutional Authority Statement	3
Section-by-Section Analysis and Discussion	3
Changes in Existing Law Made by the Bill, as Reported	3

AMENDMENTS

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Beginning on page 5, strike line 22 and all that follows through line 6 on page 14 (and make such technical and conforming changes as may be appropriate).

Beginning on page 15, strike line 18 and all that follows through line 25 on page 20 (and make such technical and conforming changes as may be appropriate).

PURPOSE AND SUMMARY

The provisions of H.R. 3849 contained in the bill as introduced established a three-year moratorium on certain state taxes applied with respect to the Internet. Such a policy is necessary in order to avoid stifling the potential for an innovative form of technology to provide information, goods and services quickly and cheaply throughout the world. In addition, recognizing the concern that the current subfederal tax system was developed in a time and for a form of commerce that could make it inappropriate for its application to the technology employed by the Internet, the bill established an Advisory Commission on Electronic Commerce to examine numerous relevant issues and make recommendations to Congress.

The Committee on the Judiciary struck all provisions of H.R. 3849 relating to these state tax issues, because it had previously addressed those identical issues in H.R. 3529. The bill as reported by the Committee on the Judiciary contains no provisions within the subject matter jurisdiction of the Committee on the Judiciary.

BACKGROUND AND NEED FOR THE LEGISLATION

For a discussion of the background and need for legislation addressing the state tax issues relating to electronic commerce and the Internet, see the Report of the Committee on the Judiciary to H.R. 3529, the "Internet Tax Freedom Act of 1998."

HEARINGS

The Committee's Subcommittee on Commercial and Administrative Law held one day of hearings on H.R. 1054 (the predecessor bill to H.R. 3849) on July 17, 1997.

COMMITTEE CONSIDERATION

On October 9, 1997, the Subcommittee on Commercial and Administrative Law met in open session and ordered reported a committee print containing an amendment to the bill H.R. 1054, by a voice vote, a quorum being present. On June 17, 1998, the Committee met in open session and ordered reported the bill H.R. 3849 with amendment by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the portions of the bill within the jurisdiction of the Committee on the Judiciary will have no budget effect.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(l)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS

H.R. 3849, as reported by the Committee on the Judiciary, contains no sections within the Committee's jurisdiction.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

TITLE I—GENERAL PROVISIONS

* * * * *

SEC. 9. REGULATORY FEES.

(a) * * *

* * * * *

(h) **EXCEPTIONS.**—The charges established under this section shall not be applicable to (1) governmental entities or nonprofit entities; **[or]** (2) to amateur radio operator licenses under part 97 of the Commission's regulations (47 C.F.R. Part 97; *or* (3) *providers of Internet access or online service*).

* * * * *

TITLE II—COMMON CARRIERS

* * * * *

SEC. 231. PROHIBITION ON REGULATION OF INTERNET ACCESS AND ONLINE SERVICES.

(a) *The Commission shall have no authority or jurisdiction under this title or section 4(i) of the Communications Act of 1934, as amended (47 U.S.C. 154(i)), nor shall any State commission have any authority or jurisdiction, to regulate the prices or charges paid by subscribers for Internet access or online services.*

(b) *PRESERVATION OF AUTHORITY.—Nothing in this subsection shall limit or otherwise affect—*

(1) the Commission’s or State Commission’s implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act; and

(2) the Commission’s or State Commission’s authority to regulate common carriers that offer Internet access or online services in conjunction with the provision of any telephone toll, telephone exchange, or exchange access services as such terms are defined in title I.

(c) *DEFINITIONS.—As used in this section:*

(1) INTERNET.—The term “Internet” means the combination of computer facilities and electro-magnetic transmission media, and related equipment and software, comprising the interconnected world-wide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(2) INTERNET ACCESS.—The term “Internet access” means a service that enables users to access content, information, and other services offered over the Internet.

(3) ONLINE SERVICE.—The term “online service” means the offering or provision of content or information services to a user as part of a package of services that are combined with Internet access.

* * * * *